

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Shawndell Monte McFarlin, #200701,

Plaintiff,

vs.

Scott S. Harris,

Defendant.

Civil Action No. 2:18-cv-3198-CMC

ORDER

This matter is before the court on Plaintiff's Complaint filed November 28, 2018. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2), D.S.C., this matter was referred to United States Magistrate Judge Mary Gordon Baker for pre-trial proceedings and a Report and Recommendation ("Report") on dispositive issues.

On February 22, 2019, the Magistrate Judge issued a Report recommending this matter be summarily dismissed with prejudice, without issuance and service of process, and that the dismissal count as a strike. ECF No. 17. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has failed to file objections, and the time to do so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the

Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a review of the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error and agrees with the Report’s recommendation the Complaint should be dismissed. Accordingly, the court adopts the Report by reference in this Order. Plaintiff’s complaint is hereby dismissed with prejudice, as legal principles bar Plaintiff’s claims and the complaint is frivolous. This dismissal shall count as Plaintiff’s second strike under 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

CURRIE

Judge
Columbia, South Carolina
March 21, 2019

s/Cameron McGowan Currie
CAMERON MCGOWAN

Senior United States District